using UNE-P. In performing the analysis to arrive at that conclusion, I identified all of the costs that are incurred when serving a multi-line POTS customer with a DS1 based service and divided that total cost by the cost of a single UNE-P line. The result of that calculation rounded up to the next whole number is the cross over point.

B. Cross Over Point From Mass Market to Enterprise

Q. PLEASE IDENTIFY THE FUNDAMENTAL CROSS OVER POINT ISSUE THE FCC ASKED STATE COMMISSIONS TO ADDRESS.

A. The fundamental issue the FCC tasked the state commissions with addressing was how should the "mass market" be distinguished from the "enterprise market?"[1] The FCC identified the cross over issue in the section of the *TRO* that is concerned with defining the market.[2]

Q. DID THE FCC SUGGEST UNITS THAT COULD BE USED IN DISTINGUISHING THE MASS AND ENTERPRISE MARKETS?

A. Yes, it did. The FCC suggested that the number of DS0 lines a customer uses at a particular location would be an appropriate unit for the cross over analysis. Specifically, the FCC stated, "as part of the economic and operational analysis discussed below, a state must determine the appropriate cut-off for multi-line DS0

[1] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36, ¶ 497 (released Aug. 21, 2003) (*"Triennial Review Order"* or *"TRO"*).
[2] *Id.*, ¶¶ 495-497.

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customers as part of its more granular review."[3] The FCC asked the state commissions to identify the number of DS0 lines needed at a particular customer location before the customer crosses over from the mass market to the enterprise market.

Q. WHAT ARE THE CHARACTERISTICS OF MASS MARKET CUSTOMERS?

A. The mass market customer base is: (a) primarily interested in basic voice POTS service[4]; (b) widely geographically dispersed[5]; and (c) unaccustomed to complex or disruptive provisioning schemes.[6] The *TRO* recognizes each of these characteristics when it distinguishes mass market from enterprise customers. For purposes of the switching impairment analysis, the FCC stated "mass market customers are analog voice customers that purchase only a limited number of POTS lines, and can only be economically served via DS0 lines."[7] Mass market customers are not located exclusively in concentrated geographic locations such as central business districts; rather residential and small business customers are located across all urban, suburban, and rural locations. These customers expect that using their telephone services, as well as changing service providers, should

[3] *Id.*, ¶ 497.
[4] *Id.*
[5] *Id.*, ¶ 205.
[6] *Id*, n. 716.
[7] *TRO*, ¶ 497. *See also TRO*, ¶ 127 ("Mass market customers consist of residential customers and very small business customers. Mass market customers typically purchase ordinary switched voice service (Plain Old Telephone Service or POTS) and a few vertical features."

F. Conclusion

Q. WHAT ARE YOUR OVERALL CONCLUSIONS FOR THE CROSS OVER POINT?

A. When a fact-based, quantitative analysis is performed using cost information from this state, the point at which it is economically rational for a CLEC to use a DS1 based service is when a customer 10 or more lines. The evidence used to arrive at this conclusion is objective and quantitative and the analysis performed was granular, specific to this state and representative of how a CLEC would view a decision to serve a customer with UNE-P or a DS1 based service. As previously discussed, the Commission can easily use the analysis to calculate cross over points for whatever markets the Commission eventually identifies.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF IMPLEMENTATION OF A BATCH CUT PROCESS	)	Case No. 03-00403-UT

AND

IN THE MATTER OF IMPAIRMENT IN ACCESS TO LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS	)	Case No. 03-00404-UT

DIRECT TESTIMONY OF

DOUGLAS DENNEY

ON BEHALF OF

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.,

DSO COST TOOL

February 16, 2004

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models, and the FCC's Synthesis Model. I have also testified about issues relating to the wholesale cost of local service -- including universal service funding, unbundled network element pricing, geographic deaveraging, and competitive local exchange carrier access rates.

II. PURPOSE AND SUMMARY OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my Direct Testimony is to describe and quantify the significant cost disadvantages, as recognized by the Federal Communications Commission ("FCC") in the Triennial Review Order, that an efficient competitive local exchange carrier ("CLEC") would confront in attempting to serve mass-market customers if continued access to unbundled local switching and the unbundled network element platform ("UNE-P") were denied.[1] To make this quantification, I employ the DS0 Impairment Analysis Tools ("Tools") developed by AT&T, and I explain why the Tools are the appropriate analytical framework to use in establishing the "cost disadvantage" for any efficient CLEC, describe how the Tools have been used to quantify that cost, and report the per line "cost disadvantage" quantified by the Tools for CLECS in New Mexico's LATA.

[1] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003) (*"Triennial Review Order"* or *"TRO"*).

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. This Section, Section II, summarizes the remainder of this testimony and the range of the cost of impairment an efficient CLEC would incur if it were required to serve the mass-market using its own switches and Qwest's unbundled Loops ("UNE-L") in Qwest's operating territory in New Mexico. Section III provides an overview of the network architecture that would be deployed -- absent access to UNE-P -- by an efficient CLEC relegated to providing service using UNE-L to the mass-market and how that network architecture compares with the incumbent Local Exchange Carrier's ("ILEC's") network design. Section III also summarizes the cost impact of the CLEC's differing network design, how I have quantified this cost differential using the Tools, and why the Tools are appropriate for determining an efficient CLEC's cost disadvantage vis-à-vis Qwest. Section IV explains in greater detail each tool that comprises the Tools. In doing so,

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Q PLEASE SUMMARIZE THE CLEC COST DISADVANTAGE FOR NEW MEXICO.

A. As indicated in the previous discussion, the Tools rely upon specified inputs for each of the calculations leading to the additional cost disadvantage an efficient CLEC would incur entering the mass-market. Overall, these inputs are conservative because (1) they focus only on major components of impairment and ignore other sources of impairment, (2) assume enterprise customers will defray a significant proportion of the costs of back-haul transport and collocation, and (3) ignore many of the costs that an efficient CLEC would spend for customer acquisition.

The results of my analyses, by geographic market, are set forth in Exhibit DD-4 and are summarized in Table 2 below.

Table 2: CLEC Cost Disadvantage per Line per LATA

LATA	CLEC Cost Disadvantage per Line per Month
664	$18.90

Based upon the calculations performed by the Tools and my analysis, an efficient CLEC that uses self-provided switching and UNE-L would face substantial additional costs as compared to Qwest in each geographic market served by Qwest and it is inescapable that cost disadvantages of this magnitude to the CLEC

– and corresponding cost umbrella for the ILEC – constitute a clear barrier to entry.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF IMPLEMENTATION OF A BATCH CUT PROCESS	)	Case No. 03-00403-UT

AND

IN THE MATTER OF IMPAIRMENT IN ACCESS TO LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS	)	Case No. 03-00404-UT

DIRECT TESTIMONY

OF

MICHAEL R. BARANOWSKI

ON BEHALF OF

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.

BUSINESS CASE

February 16, 2004

can economically serve markets without access to certain unbundled network elements.

I also have experience with other network industries. I have nearly 20 years of experience consulting to the nation's major railroads and petroleum products pipelines on a variety of issues, including economic and financial studies of pricing, costing, and mergers and acquisitions.

II. INTRODUCTION, PURPOSE, AND STRUCTURE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present the results of AT&T's Business Case Analysis Tool ("BCAT") that is used to demonstrate the economic impairment that would be suffered by an efficient CLEC providing service to mass market consumers in New Mexico if unbundled switching is unavailable. My testimony provides an overview of the BCAT, certain key assumptions, and an analysis of the results. The BCAT is relevant to the assessment of potential competition and is consistent with the FCC's recent Triennial Review Order ("TRO")[1] and the economic and regulatory framework for assessing impairment as explained in the testimony of Drs. William Lehr and Lee Selwyn.[2]

[1] *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Federal Communications Commission, CC Docket No. 01-338, (Released August 21, 2003.) ("TRO").
[2] See *Direct Testimony of William H. Lehr and Lee L. Selwyn on Behalf of AT&T*, In the Matter of the Implementation of the Federal Communications Commission's Triennial Review Order Adopting New Rules for Network Unbundling Obligations, Before the Public Regulation Commission of the State of New Mexico, Case Nos. 03-00403-UT and 03-00404-UT, February 9, 2004 (hereafter, referred to as "Testimony of Drs. Lehr and Selwyn").

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Q. PLEASE SUMMARIZE THE MAIN CONCLUSIONS YOU REACH IN YOUR TESTIMONY.

A. The principal conclusions that are explained in my testimony include the following:

(1) Efficient CLEC entry to serve mass market customers in New Mexico would be unprofitable without access to unbundled switching. A CLEC should expect to realize large negative returns if it attempted to execute the efficient business plan.

(2) The BCAT provides a conservative estimate of the likely economic losses associated with seeking to serve mass market consumers without unbundled switching in New Mexico. Actual losses would likely be larger.

(3) The BCAT model uses the best available, verifiable data in its formulation. This includes relying on granular, New Mexico-specific inputs wherever possible. This is consistent with the TRO and its proper application as explained in Drs. Lehr and Selwyn's testimony.

Q. HOW IS THE REST OF YOUR TESTIMONY ORGANIZED?

A. The balance of my testimony is organized into the following three sections: Section III provides an overview of the BCAT and summarizes the main results; Section IV provides a more detailed discussion of the business case for potential CLEC competition that demonstrates impairment in the absence of unbundled switching for mass market customers; Section V is the conclusion. **Exhibit MRB-1** to my testimony includes the BCAT and the results for New Mexico, and **Exhibit MRB-2** contains the inputs document for the BCAT.

Q. HOW DOES THE BCAT DEVELOP COSTS ASSOCIATED WITH UNCOLLECTIBLE REVENUE?

A. A portion of customer revenues is never collected by carriers, including the hypothetical efficient CLEC, because of customer bankruptcy, refusal to pay due to dispute, or service abandonment. The BCAT incorporates these costs by applying separate uncollectible rates (percentages) to retail revenues, access revenues and reciprocal compensation revenues. To be conservative, the BCAT relies on ARMIS data on uncollectibles.

V. CONCLUSION

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. In order to determine whether an efficient CLEC can profitably serve mass-market customers in New Mexico, AT&T developed the Business Case Analysis Tool (BCAT). The BCAT estimates the total revenues and costs that an efficient CLEC would expect to incur if it used UNE-L and CLEC-owned switching to serve mass market customers in New Mexico.

The BCAT relies upon inputs and is consistent with the DS0 Impairment Tool that is discussed in the testimony of Douglas Denney. The BCAT estimates the revenues and other costs not considered in the DS0 Impairment Tool that would be incurred by an efficient CLEC over a ten year planning horizon.

The BCAT analysis demonstrates that an efficient CLEC would realize substantial negative returns in serving the mass market using CLEC-owned switching. This result is not surprising in light of the significant cost disadvantage demonstrated

by the DS0 Impairment Tool, and confirms the TRO's national finding of impairment with respect to mass market switching.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF IMPLEMENTATION OF A BATCH CUT PROCESS	)	Case No. 03-00403-UT

AND

IN THE MATTER OF IMPAIRMENT IN ACCESS TO LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS	)	Case No. 03-00404-UT

DIRECT TESTIMONY

OF

ROBERT V. FALCONE

ON BEHALF OF

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.

NETWORK ARCHITECTURE

FEBRUARY 16, 2004

implementation of a new circuit switched network in Canada in a joint venture with Unitel of Canada and implementation manager for AT&T's conversion of its access network to SS7 out-of-band signaling. In 1994, I was promoted to a District Manager responsible for headquarters support of AT&T's local market network implementation. In 1997, I was promoted to a Division Manager responsible for supporting the AT&T regions with local market entry initiatives. I retired from AT&T in June of 1998. After retiring from AT&T, I have worked as a self-employed consultant for numerous clients including: AT&T, CompTel, BearingPoint (formerly KPMG Consulting) and Liberty Consulting. While working as a subcontractor with BearingPoint I was the group leader for BearingPoint's Systems Engineering Organization on the ILEC Operational Support System (OSS) testing team. In this role I was responsible for the test planning, test bed development and test execution for BearingPoint's various ILEC OSS 271 testing efforts, including the Regional "ROC" test of Qwest's OSSs.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The differences in the way end users' loops are connected to ILEC switches and the way they are connected to CLEC switches are among the most important factors that cause CLECs to face substantial operational and economic entry barriers when they seek to offer Plain Old Telephone Service ("POTS") to mass-market (residential and small business) customers using their own switches and ILEC-provided loops (i.e., via unbundled network element-loop or "UNE-L" facilities-based entry).

Accordingly my testimony:

- Compares the significantly different network architectures available to an ILEC and a CLEC when each wishes to use an ILEC-owned voice-grade loop to connect a mass market customer with its respective switch to provide POTS; and
- Provides an overview of the network architecturally-based operational and economic entry barriers to successful UNE-L facilities-based entry.
- Submits an illustrative aid in the form of a DVD describing the CLEC network and hot cut process. *See* **Exhibit 1.**

Q. DID THE FCC MAKE ANY FINDINGS IN THE TRIENNIAL REVIEW ORDER ("*TRO*") REGARDING THE ISSUES YOU DISCUSS?

A. Yes. The FCC found on a national basis that CLECs are impaired in serving the mass market in the absence of unbundled ILEC switching.[1] This finding was based on an analysis that began with the simple, self-evident proposition that CLECs cannot use their own switches, in lieu of the ILECs', unless they can connect their switches to their end-users' loops. The FCC explained:

> Competitive LECs can use their own switches to provide services only by gaining access to customers' loop facilities, which predominately, if not exclusively, are provided by the incumbent LEC. Although the record indicates that competitors can deploy duplicate switches capable of serving all customer classes, without the ability to combine those switches with customers' loops in an economic manner, competitors remain impaired in their ability to provide service. Accordingly, it is critical to consider competing carriers' ability to have customers' loops connected to their switches in a reasonable and timely manner.[2]

[1] *TRO* at ¶¶ 422 & 459.
[2] *TRO* at ¶ 429 (emphasis added).

To emphasize the importance of the ability of CLECs to connect their switches to the loops of their end-users, the FCC noted that no party disputed that competitors need access to the ILECs' loops to compete in the mass market.[3]

Q. WHAT DO THE ISSUES YOU WILL DISCUSS HAVE TO DO WITH THESE FINDINGS BY THE FCC?

A. As discussed in the testimony of William H. Lehr and Lee L. Selwyn, the absolute cost disadvantages experienced by CLECs trying to serve mass market customers using UNE-L make it impossible to combine UNE loops and CLEC switches in an economic manner. Those cost disadvantages result in large part from the differences in network architecture that are the subject of my testimony.

In fact, the FCC found that the failure of CLECs to utilize their existing enterprise switches to be probative evidence of significant barriers making entry uneconomic.

> We found significantly more probative the evidence that in areas where competitors have their own switches for other purposes (e.g., enterprise switches), they are not converting them to serve mass market customers and instead relying on unbundled loops combined with unbundled local circuit switching. Given the fixed costs already invested in these switches, competitors have every incentive to spread the costs over a broader base. Their failure to do so bolsters our finding that significant barriers caused by hot cuts and other factors make such entry uneconomic.[4]

> We find . . . that the fact that competitors have not converted unbundled loops combined with unbundled local switching or served residential customers with existing switches only serves to demonstrate the barriers to such service.[5]

[3] *TRO* at n. 1316.
[4] *TRO* at ¶ 447, fn.1365.
[5] *TRO* at ¶ 449, fn.1371 (citations omitted).

In addition, these network architecture issues are relevant to understanding the batch cut process and to understanding the operational impairment CLECs face. They also are important to understanding how to categorize carriers as part of the FCC's trigger analysis.

Q. FROM A NETWORK ARCHITECTURE PERSPECTIVE, WHAT IS THE FUNDAMENTAL OR CENTRAL PROBLEM THAT CAUSES CLECS TO BE IMPAIRED IN THEIR ABILITY TO SERVE MASS MARKET CUSTOMERS USING UNE-L?

A. As discussed in detail below, the central problem is that the ILECs' legacy network architecture was designed to support a single regulated monopoly provider, not a competitive market with multiple service providers seeking access to the ILEC's loops. This architecture allows an ILEC to connect its legacy loops to its own switches within the ILEC's wire center to provide service to end user customers. However, the legacy ILEC network architecture provides an inefficient and uneconomic means for a CLEC that tries to connect those same loops to its switch which, in New Mexico, is always remotely located from the ILEC central office where these loops terminate. This fundamental structural difference creates overwhelming operational and economic advantages for the ILEC – advantages that make it both impractical and uneconomic for CLEC competitors to compete with the ILEC to serve mass-market customers ubiquitously using a UNE-L architecture.

Q. WHAT ARE THE KEY COMPONENTS OF THIS STRUCTURAL DISADVANTAGE?

A. There are five key components to this structural disadvantage.

First, a CLEC must incur the time and cost to install and maintain a significant "backhaul" network infrastructure to connect its switch to the ILEC loops that terminate in the ILEC's wire center, which may also be referred to as a central office ("CO") or local serving office ("LSO"). The ILEC has no such need for backhaul facilities. As the FCC explained in the TRO, "The need to backhaul the circuit derives from the use of a switch located in a location relatively far from the end user's premises, which effectively requires competitors to deploy much longer loops than the incumbent."[6] These CLEC backhaul costs include the non-recurring costs necessary to establish a collocation arrangement in every ILEC wire center in which the CLEC wishes to offer mass market services, the recurring costs paid to the ILEC for maintaining these collocation arrangements, as well as the transport equipment and facilities necessary to extend the ILEC's loops to the remotely located CLEC switch.

Second, a CLEC using UNE-L must aggregate traffic from many locations to achieve the same switch economies of scale realized by an ILEC at a single location. This forces the CLEC to incur its backhaul cost disadvantage in many wire centers to achieve the type of switch scale economies that the ILEC achieves at a single wire center.

[6] *TRO* at ¶ 480 (citations omitted); *see* also *TRO* at ¶ 464, n. 1406; *TRO* at ¶ 424, n. 1298; and *TRO* at ¶ 429.

Third, the CLEC must pay the ILEC for transferring loops from the ILEC switch to a CLEC collocation facility, or from one CLEC to another. This transfer process, commonly known as a "hot cut," also forces the CLEC's customers to suffer an inferior experience in converting to the CLEC's service compared with the treatment they can receive using UNE-P, or that interexchange carriers -- including the ILECs -- can offer customers using the Primary Interexchange Carrier ("PIC") change process for allowing customers to change their long distance service provider.

Fourth, because of the way ILECs have chosen to provision UNE-Ls that pass through integrated digital loop carrier ("IDLC") systems, CLECs may be precluded from serving an entire segment of retail customers unless the ILEC has the spare non-IDLC loop plant in place to replace these customer's lines so that they are eligible for a UNE-L migration to a CLEC.

Finally, because the CLECs do not have the traffic volumes that the ILEC does, they cannot efficiently exchange inter-switch traffic at a switch-to-switch level. As a result the CLECs will be reliant on the ILEC's tandem network for the exchange of this traffic. This reliance will both increase CLEC costs and potentially cause CLECs to experience additional operational impairments, such as inadequate subtending trunking.

Q. PLEASE DESCRIBE HOW THE REMAINDER OF YOUR TESTIMONY IS ORGANIZED.

A. **Section II** provides a historical overview of how the ILECs' networks developed and the principles underlying their evolution in a monopoly environment.

Section III describes how end-user locations are connected to ILEC switches and why that service configuration has serious implications for mass-market competition.

Section IV describes CLEC networks and how the incumbents' closed and integrated network architecture causes quantifiable and significant cost, operation disadvantages and barriers for a new entrant.

Section V briefly describes the impairment created by the way ILECs deploy IDLC technology and have chosen to provision UNE-L around it.

Section VI provides my concluding opinions.

II. PRINCIPLES UNDERLYING THE DEVELOPMENT OF ILEC NETWORKS

Q. PLEASE PROVIDE AN OVERVIEW OF THE PRINCIPLES UNDERLYING THE HISTORICAL DEVELOPMENT OF ILEC NETWORKS.

A. The essence of the telephone network is *connecting* one party to another, whether they are physically located near each other or separated by considerable distance. There is value in merely being *able* to call any party on the network, or likewise being *able* to receive calls from any party on the network. In theory, the more parties that can be reached, the greater the value of the network. The nature of voice communication is that even brief conversations, such as emergency calls, can be of great value. Telephone networks are predominantly designed to facilitate relatively short, private, one-to-one, bidirectional communications. The telephone network must stand ready to complete any particular call (or tens of millions of calls) at any

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VI. CONCLUSION

Q. CAN THE FUNDAMENTAL CHARACTERISTICS OF THE EXISTING SINGLE-USE ILEC NETWORK BE MITIGATED WITHOUT TECHNOLOGICAL CHANGE?

A. No. Until the underlying local network architecture that has created these impairments is changed, CLECs will continue to face significant practical and economic impairments in serving mass-market end-users on ILEC loops *via* their own switches.

Q. PLEASE SUMMARIZE THE CRITICAL ISSUES YOU DISCUSS IN YOUR TESTIMONY.

A. The critical issue of this proceeding is not whether CLECs can "deploy" their own switches. Instead, the critical issue upon which this Commission should focus is whether a CLEC can "efficiently use" its own switch to connect to the local loops of end users. The differences in the way end users' loops are connected to carriers' switches are among the most important factors that cause CLECs to face substantial operational and economic entry barriers when they seek to offer POTS to mass-market (residential and small business) customers using their own switches and ILEC-provided loops (i.e., UNE-L facilities-based entry). The barriers to which I refer relate primarily to the requirements that CLECs backhaul UNE-L traffic from the serving ILEC wire center to the CLEC switch.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, at this time.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF IMPLEMENTATION OF A BATCH CUT PROCESS **Case No. 03-00403-UT**

and

IN THE MATTER OF IMPAIRMENT IN ACCESS TO LOCAL CIRCUIT SWITCHING FOR MASS MARKET CUSTOMERS **Case No. 03-00404-UT**

DIRECT TESTIMONY OF

TIMOTHY J GATES

Operational Impairment

ON BEHALF OF

WORLDCOM, INC. (MCI)

PUBLIC VERSION

February 16, 2004

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Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. At paragraph 419 of its *Triennial Review Order*,[1] the Federal Communications Commission ("FCC") found, on a national basis, that competitive local exchange carriers ("CLECs") are impaired without access to unbundled local switching when attempting to serve the "mass market."[2] The FCC pointed specifically to certain economic and operational criteria that served as the basis for its impairment finding, and asked state commissions to review these issues in more detail as they contemplate whether the finding of impairment should be overturned in any of the telecommunications markets within their jurisdictions. *See Triennial Review Order* ¶ 493. At paragraph 476 of the *Triennial Review Order*, the FCC describes a number of economic and operational factors, including for example, issues related to incumbent local exchange carrier ("ILEC") unbundling performance, collocation and the lack of processes and procedures facilitating the transfer of loops from one CLEC's switch to another CLEC's switch. The FCC specifically identified these types of issues as those it believed could add to the impairment faced by CLECs attempting to provide services via UNE loop ("UNE-L") as compared to the relative ease with which CLECs can provide such services utilizing the UNE platform ("UNE-P").[3]

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[1] *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36, ¶ 3 (rel. Aug. 21, 2003) ("*Triennial Review Order*" or "*TRO*").

[2] Enterprise market customers are those that could be economically served by a DS1 loop, even if they presently are being served by DS0 loops. Mass market customers are those that could not be economically served by a DS1 loop.

[3] UNE-P is simply the CLEC using an existing Qwest finished service which includes the unbundled loop, transport, line port and local switching. In Qwest's Wholesale Product Catalog, UNE-P is defined as:

Qwest Corporation ("Qwest") has requested the New Mexico Public Regulation Commission ("Commission") to enter a finding of "non impairment" with respect to unbundled local switching for mass market customers in the Albuquerque Metropolitan Statistical Area ("MSA") and possibly the Santa Fe, Las Cruces and Farmington MSAs and to remove unbundled local switching ("ULS") from the list of available unbundled network elements ("UNEs").[4] The purpose of this testimony is to describe why operational, network, and technological factors give rise to impairment, and to describe how CLECs generally, and MCI specifically, are impaired in their effort to serve the mass market without access to ULS in today's environment. This testimony also describes ways in which many of the factors leading to today's impairment can be overcome with active oversight on the part of the Commission and cooperation of the industry.

Q. BEFORE SUMMARIZING YOUR TESTIMONY, DO YOU HAVE ANY GENERAL COMMENTS?

A. Yes. I believe it is critical to highlight the fact that UNE-P is successful today as a tool for mass market competition in large part because (1) a host of talented people and an enormous number of resources (Commission resources, CLEC resources, Attorney General's Office resources and Qwest resources alike) were dedicated to its development as a commercially viable delivery platform over a period of many years (with the last four years exhibiting the most focused efforts),

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"Qwest provides UNE-P POTS combinations as a finished service to end-users *on behalf of CLECS.* UNE-P POTS provides service similar in functionality as Qwest's retail residential and business services." (emphasis added)

[4] See, Qwest's Initial Status Report, filed with this Commission in this docket on December 19, 2003.